

House Bill 1052 (AS PASSED HOUSE AND SENATE)

By: Representatives Murphy of the 23<sup>rd</sup>, Rice of the 51<sup>st</sup>, and Beasley-Teague of the 65<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

To amend Article 2 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles, so as to provide for a distinguishable transporter license plate; to amend Chapter 47 of Title 43 of the Official Code of Georgia Annotated, relating to used motor vehicle and used motor vehicle parts dealers, so as to provide for definitions; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 2 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles, is amended by striking Code Section 40-2-38, relating to registration and licensing of dealers, manufacturers, and persons transporting motor vehicles and mobile homes, in its entirety and inserting in its place the following:

"40-2-38.

(a)(1) Manufacturers, distributors, and dealers engaged in the manufacture, sale, or leasing of vehicles required to be registered under Code Section 40-2-20 shall register with the commissioner, making application for a distinguishing dealer's number, specifying the name and make of motor vehicle, tractor, or trailer manufactured, sold, or leased by them, upon forms prepared by the commissioner for such purposes, and pay therefor a fee of \$62.00, which shall accompany such application. Upon payment of such fee by a dealer, the commissioner shall furnish to the dealer one master number plate to expire December 31 of each year, to be known as a dealer's number and to be distinguished from the number plates provided for in this chapter by different and distinguishing colors to be determined by the commissioner. The dealer plate for a franchise motor vehicle dealer shall be distinguishable from the dealer plate for a used car dealer and from the dealer plate for a motor vehicle wholesaler. A dealer's number

plate is for the purpose of demonstrating or transporting dealer's vehicles or trailers for sale or lease. Persons engaged in the business of transporting vehicles for a dealer under a vehicle's own power shall be permitted to use such dealer's plate for the purpose of transporting a vehicle.

~~(1)~~(2) No dealer may use or permit to be used a dealer's number for private use or on cars for hire, for lease, or other manner not provided for in this Code section. A dealer may use or permit to be used a dealer's number for private use on vehicles owned by the dealership, regardless of whether such vehicle has been issued a certificate of title or registered, when such vehicles are operated by an employee or corporate officer of the dealer which has been issued such number. A distinguishing dealer's number used by an employee or officer for private use shall authorize such person to operate the vehicle to which the number is attached on the public highways and streets. For purposes of this paragraph, 'employee' means a person who works a minimum of 36 hours per week at the dealership.

~~(2)~~(3) The manufacturer's or distributor's license plate is limited to no longer than six months' use per vehicle. Upon payment of such a fee by a manufacturer or distributor, the commissioner shall issue to manufacturers and distributors number plates with the word 'Manufacturer' or 'Distributor' on such plates. Nothing in this subsection shall preclude a manufacturer or distributor from using a 'Manufacturer' or 'Distributor' number plate on motor vehicles it owns when such vehicles are used for evaluation or demonstration purposes, notwithstanding incidental personal use by a manufacturer or distributor. A dealer may apply for one or more distinguishing dealer's numbers. In the event the dealers, distributors, or manufacturers desire more than one tag, they shall so state on the application, and, in addition to the fee of \$62.00 provided in this Code section, shall pay \$12.00 for each and every additional number plate furnished.

(b) Dealer plates shall be issued in the following manner:

(1) Dealers shall be issued a master plate and two additional plates, for a total of three initial plates; and

(2) In addition to the three dealer plates issued in accordance with paragraph (1) of this subsection, each dealer may also be issued one additional dealer plate for every 20 ~~retail~~ units sold in a calendar year.

In order to determine the additional number and classification of plates to be issued to a dealer, a dealer shall be required to certify by affidavit to the department the number of retail and wholesale units sold in the prior calendar year using the past motor vehicle sales history of the dealer as identified by department records of documentation approved by the department. If no sales history is available, the department shall issue a number of plates

1 based on an estimated number of sales for the coming calendar year. The department may,  
2 in its discretion, request documentation supporting sales history and may increase or  
3 decrease the number and classification of plates issued based on actual sales.

4 ~~(c) Persons engaged in the business of transporting mobile homes and house trailers for~~  
5 ~~others shall likewise be entitled to obtain license plates under this Code section. The~~  
6 ~~commissioner is authorized to promulgate rules and regulations covering the issuance of~~  
7 ~~plates to such persons; provided, however, this Code section shall not apply in any manner~~  
8 ~~to farm tractors.~~

9 ~~(d)~~(c) This Code section shall not apply in any manner to mopeds as such term is defined  
10 in Code Section 40-1-1.

11 ~~(e)~~(d) The license plates issued pursuant to this Code section shall be revoked and  
12 confiscated upon a determination after a hearing that such dealer, distributor, or  
13 ~~manufacturer, or person engaged in transporting mobile homes and house trailers~~ has  
14 unlawfully used such license plates in violation of this Code section.

15 ~~(f)~~(e) If a license plate issued pursuant to this Code section is lost or stolen, the dealer,  
16 manufacturer, distributor, or other party to whom the license plate was issued must  
17 immediately report the lost or stolen plate to local law enforcement agencies. If a  
18 replacement license plate is sought, the dealer, manufacturer, distributor, or other party to  
19 whom the license plate was issued shall file a notarized affidavit with the department  
20 requesting a replacement plate. Such affidavit shall certify under penalty of perjury that  
21 the license plate has been lost or stolen and that the loss has been reported to a local law  
22 enforcement agency."

## 23 SECTION 2.

24 Said article is further amended by inserting a new Code section immediately following Code  
25 Section 40-2-38, relating to registration and licensing of dealers, manufacturers, and persons  
26 transporting motor vehicles and mobile homes, to read as follows:

27 "40-2-38.1.

28 (a) A person engaged in the business of the limited operation of a motor vehicle for any  
29 of the following purposes may obtain a transporter plate authorizing the movement of the  
30 vehicle for the specific purpose:

31 (1) To facilitate the delivery of new or used motor vehicles, trucks, or buses between  
32 manufacturers, distributors, dealers, sellers, or purchasers;

33 (2) To move a mobile office, a mobile classroom, a mobile or manufactured home, or a  
34 house trailer;

(3) To drive a motor vehicle that is part of the inventory of a dealer to and from a motor vehicle trade show or exhibition or to, during, and from a parade in which the motor vehicle is used; or

(4) To drive special mobile equipment in any of the following circumstances:

(A) From the manufacturer of the equipment to a facility of a dealer; or

(B) From one facility of a dealer to another facility of a dealer.

(b) This Code section shall not be construed to require a motor vehicle dealer to obtain transporter plates in order to transport vehicles for sale or lease.

(c) A person may obtain a transporter plate by filing an application with the Department of Revenue and paying the required fee. The fee for an initial transporter plate shall be \$62.00 and the fee for all additional plates shall be \$12.00. An application for a transporter plate must be on a form provided by the department and must contain the information required by the department. The department is authorized to promulgate regulations consistent with this Code section.

(d) Transporter plates issued under this Code section shall be distinguishable from dealer, wholesaler, manufacturer, or distributor plates, as provided for in Code Section 40-2-38.

(e) During the year for which it is issued, a person may transfer a transporter plate from one vehicle to another so long as the vehicle is driven only for a purpose authorized by subsection (a) of this Code section. In order to obtain a transporter plate, an applicant must demonstrate to the department compliance with all applicable federal and state laws.

(f) The license plates issued pursuant to this Code section shall be revoked and confiscated upon a determination after a hearing that an applicant has unlawfully used such license plates for purposes other than those expressly permitted by this Code section.

(g) If a license plate issued pursuant to this Code section is lost or stolen, the dealer, manufacturer, distributor, or other party to whom the license plate was issued must immediately report the lost or stolen plate to local law enforcement agencies. If a replacement license plate is sought, the dealer, manufacturer, distributor, or other party to whom the license plate was issued shall file a notarized affidavit with the department requesting a replacement plate. Such affidavit shall certify under penalty of perjury that the license plate has been lost or stolen and that the loss has been reported to a local law enforcement agency.

(h) This Code section shall not in any way apply to farm tractors."

### SECTION 3.

Chapter 47 of Title 43 of the Official Code of Georgia Annotated, relating to used motor vehicle and used motor vehicle parts dealers, is amended in Code Section 43-47-2, relating

1 to definitions relative to the Used Motor Vehicle Dealers' and Used Motor Vehicle Parts  
2 Dealers' Registration Act, by striking subparagraph (A) of paragraph (17) and inserting in  
3 lieu thereof a new subparagraph (A) and a new paragraph (19) to read as follows:

4 "(17)(A) 'Used motor vehicle dealer,' 'used car dealer,' or 'licensee' means any person  
5 who, for commission or with intent to make a profit or gain of money or other thing of  
6 value, sells, exchanges, rents with option to purchase, offers, or attempts to negotiate  
7 a sale or exchange of an interest in used motor vehicles or who is engaged wholly or in  
8 part in the business of selling used motor vehicles, whether or not such motor vehicles  
9 are owned by such person. A motor vehicle wholesaler and a motor vehicle broker  
10 shall be deemed to be a used motor vehicle dealer or a used car dealer for the purposes  
11 of this chapter. Any independent motor vehicle leasing agency which sells or offers for  
12 sale used motor vehicles shall be deemed to be a used motor vehicle dealer or a used  
13 car dealer for the purposes of this chapter. Any motor vehicle auction company selling  
14 or offering for sale used motor vehicles to independent motor vehicle dealers or to  
15 individual consumers shall be deemed to be a used motor vehicle dealer or used car  
16 dealer for the purposes of this chapter except as otherwise provided in division (x) of  
17 subparagraph (B) of this paragraph. Without limiting any of the foregoing, the sale of  
18 five or more used motor vehicles in any one calendar year shall be prima-facie evidence  
19 that a person is engaged in the business of selling used motor vehicles. Financial  
20 institutions as used in this chapter shall not include a pawnbroker as defined in Code  
21 Section 44-12-130; provided, however, that a pawnbroker who disposes of all  
22 repossessed motor vehicles by selling or exchanging his or her interest in such motor  
23 vehicles only to licensees under this chapter shall not be considered a used motor  
24 vehicle dealer under this chapter as long as such pawnbroker does not otherwise engage  
25 in activities which would bring him or her under the licensing requirements of this  
26 chapter."

27 "(19) 'Wholesaler' means a person who sells or distributes used motor vehicles to motor  
28 vehicle dealers in this state, has a sales representative in this state, or controls any person  
29 who offers for sale, sells, or distributes any used motor vehicles to motor vehicle dealers  
30 in this state."

#### 31 SECTION 4.

32 This Act shall become effective upon its approval by the Governor or upon its becoming law  
33 without such approval.

#### 34 SECTION 5.

- 1 All laws and parts of laws in conflict with this Act are repealed.